

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

RONALD A.,

Claimant,

vs.

SOUTH CENTRAL LOS ANGELES  
REGIONAL CENTER,

Service Agency.

OAH No. 2011040303

**DECISION**

Howard W. Cohen, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on June 17, 2011, in Los Angeles.

Ronald A.<sup>1</sup> (claimant) was present, as was Aura A., claimant's mother. Claimant was represented by his authorized representative, Odilon Urtiz,<sup>2</sup> and he utilized the services of an interpreter, Silene Conceicao.

Johanna Arias-Bhatia, Fair Hearing Manager, represented South Central Los Angeles Regional Center (Service Agency or SCLARC).

Oral and documentary evidence was received. The record was closed and the matter was submitted for decision on June 17, 2011.

//

//

---

<sup>1</sup> Initials and family titles are used to protect the privacy of claimant and his family.

<sup>2</sup> Mr. Urtiz, who served as claimant's authorized representative at hearing, also serves as the Community Resources Manager at Partnership for Active Living Services (PALS), the provider of the services at issue in this matter.

## ISSUE

Whether the Service Agency may terminate funding for claimant's independent living skills (ILS) services.

## EVIDENCE RELIED UPON

*Documents:* Service Agency's exhibits 1-10; claimant's exhibits A-H.

*Testimony:* Leah Chin, SCLARC program manager; Aura A., claimant's mother.

## FACTUAL FINDINGS

1. Claimant is a non-conserved 31-year-old man, born on March 15, 1980, who is a consumer of SCLARC based on his qualifying diagnosis of mild mental retardation. Claimant lives at home with his parents. According to his Individual Program Plan (IPP) annual review dated March 4, 2009, after a meeting attended by claimant, his mother, Mercedes Gonzalez, claimant's work program counselor, and Rafael Palma, claimant's service coordinator, claimant

does not present behaviors. He is not defiant, aggressive, self injurious, or presents [sic] any running away, destruction of property, or physical or verbal abusiveness. Mom reported that in general, [claimant] is well behaved and Mom does not have any worries or concerns regarding his emotional health. . . . [H]e no longer requires supervision when he goes to the bathroom.

(Ex. 4.) The IPP review also states that claimant would prefer not to live with his father, and that "[h]is mother requested living arrangement at a facility. She would probably rent somewhere else, but the situation with her husband affects her son Ronald. She claimed that consumer's father has never been a good support [for] his son." (*Id.*)

2. Claimant receives Service Agency funding for 30 hours per month of ILS instruction provided by PALS; he has received funding for ILS since 2006. Claimant also receives Service Agency funding for a sheltered work program at ARC Southeast Industries for transportation to and from that program, for a weight management program, and for respite.

//

//

3. At a meeting on March 16, 2011, Mr. Palma explained to claimant's mother that claimant no longer qualified for ILS services because he had received the services for several years and still had no plans to live independently in the near future.<sup>3</sup> (Ex. 1.) Claimant's mother and Mr. Palma signed an IPP Addendum on that date agreeing to the termination of funding for ILS services.

4. Leah Chin, a SCLARC program manager, signed that IPP addendum on March 30, 2011. On April 7, 2011, claimant submitted to SCLARC a Fair Hearing Request, appealing the termination of ILS and requesting that aid be paid pending a hearing.<sup>4</sup>

5. Ms. Chin testified that ILS is intended to train consumers who wish to live independently and who have the potential for obtaining the skills that will allow them to do so. ILS service providers train consumers in such areas as caring for their own apartment, money management, shopping, cleaning, cooking, and safety awareness. ILS is a transitional service and is not designed to continue indefinitely. Ms. Chin testified that services were terminated because claimant, while perhaps meeting some goals established by PALS, was not close to meeting the overarching goal of living independently any time soon. She testified that if his mother had said that claimant would be moving out within six months to a year, the Service Agency would have continued to provide funding.

6. Claimant has not acquired the skills necessary to live independently after five years of ILS services. Claimant has still not learned to shop, budget, manage money, check his change after purchases, maintain his personal safety, participate in community activities, or pick up prescription medications without assistance and supervision. (Ex. D.) Claimant's mother schedules and transports claimant to all medical and dental appointments. (Ex. 4.)

7. Claimant's mother testified that claimant has benefitted from and has made progress as a result of ILS services. She testified, however, that he learns and progresses very slowly and that, although he has received ILS services for five years, he is not ready to live independently. She testified that she does not know how many more years of ILS training claimant will require; she did not request one more year of funding from Mr. Palma at the March 16, 2011, IPP Addendum meeting. She confirmed that she has expressed to the Service Agency her interest in having claimant live in a group home.

//

//

---

<sup>3</sup> The evidentiary record is unclear as to whether claimant attended this meeting. There is evidence that claimant's mother has signed other Service Agency documentation on claimant's behalf and that she has a history of advocating for claimant and agreeing to his services and supports.

<sup>4</sup> The Service Agency did not send claimant a notice of proposed action (NOPA) because claimant's mother had agreed to the termination of services.

## LEGAL CONCLUSIONS

1. The Lanterman Act governs this case. (§ 4500 et seq.) An administrative “fair hearing” to determine the rights and obligations of the parties is available under the Lanterman Act. (§§ 4700-4716.) Claimant requested a fair hearing to appeal the Service Agency’s decision to terminate funding for ILS. Jurisdiction in this case was thus established. (Factual Findings 1-4.)

2. The party asserting a claim generally has the burden of proof in administrative proceedings. (See, e.g., *Hughes v. Board of Architectural Examiners* (1998) 17 Cal.4th 763, 789, fn. 9.) In this case, the Service Agency bears the burden of proving, by a preponderance of the evidence, that it is entitled to terminate funding for claimant’s ILS services. (Evid. Code, § 115.) The Service Agency has satisfied that burden.

3. The Lanterman Act is a comprehensive statutory scheme to provide “[a]n array of services and supports . . . which is sufficiently complete to meet the needs and choices of each person with developmental disabilities, regardless of age or degree of disability, and at each stage of life and to support their integration into the mainstream life of the community.” (§ 4501.) The services and supports should “enable persons with developmental disabilities to approximate the pattern of everyday living available to people without disabilities of the same age.” (*Id.*)

4. The services and supports to be provided to a consumer are determined in the IPP process on the basis of the needs and preferences of the consumer and a consideration of a range of service options proposed by the IPP participants, the effectiveness of each option in meeting the goals stated in the IPP, and the cost-effectiveness of each option. (§ 4512, subd. (b).)

5. The Service Agency established by a preponderance of the evidence that claimant is not entitled to funding for ILS services. Claimant has made little progress in developing independent living skills after approximately five years of ILS services. Nor does claimant have the ability or any plan to live independently in the foreseeable future; his mother testified that she has discussed with the Service Agency the possibility of his living in a group home. (Factual Findings 1, 3, 5-7.) Given claimant’s speculative and remote prospects for independent living, and based on his minimal progress over the past five years in learning the necessary skills to do so, the continued provision of ILS services is unnecessary at this time.

//

//

//

## ORDER

Claimant's appeal is denied. SCLARC is not required to fund claimant's ILS services.

DATED: August 19, 2011

---

HOWARD W. COHEN  
Administrative Law Judge  
Office of Administrative Hearings

## NOTICE

**This is the final administrative decision; both parties are bound by this decision. Either party may appeal this decision to a court of competent jurisdiction within 90 days.**